

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF UMATILLA

WILMINGTON SAVINGS FUND SOCIETY,
FSB, D/B/A CHRISTIANA TRUST, NOT
INDIVIDUALLY BUT AS TRUSTEE FOR
PRETIUM MORTGAGE ACQUISITION
TRUST,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEWISEES
OF EDWIN L. CURTIS; THE UNKNOWN
HEIRS AND DEWISEES OF DIANA K.
CURTIS; MICHELLE FROST; LEZLEE
CURTIS; BENEFICIAL OREGON, INC;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: CV151400

WRIT OF EXECUTION IN
FORECLOSURE

TO THE UMATILLA COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on 6/6/2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A CHRISTIANA TRUST,
NOT INDIVIDUALLY BUT AS TRUSTEE FOR PRETIUM MORTGAGE
ACQUISITION TRUST
c/o Robert Hakari, Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

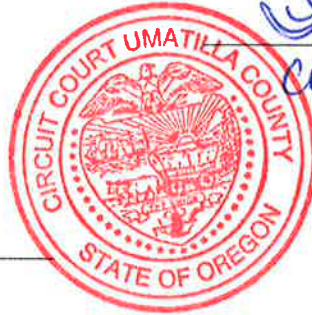
With the adjudicated amount due of \$78,745.88, plus post judgment interest at the statutory rate of 9.0% per annum from 6/6/2017 to 9/6/2017 in the amount of \$1,786.34, and continuing with a per diem of \$19.42, currently totaling \$80,532.22.

NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby commanded to sell, in the manner prescribed by law for the sale of real property on

1 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
2 about 11/1/1996, the date of the Deed of Trust, and also the interest that the Defendant had
3 thereafter, in the real property described as shown in Exhibit 1, having APN No. 123512,
4 commonly known as: 80291 Hornsby Lane, Hermiston, OR 97838 and may also be known as
5 Route 3 Box 3455, Hermiston, OR 97838.

6 Sale of the property is to satisfy the sum listed above, plus the costs incurred in
7 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under
8 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.
9 You are to make the return within 60 days after you receive this Writ. Should the sale be
10 continued, the writ may be automatically extended for 30 days.

dated: Sept. 7th, 2017
Johnson
court clerk



14 **McCarthy & Holthus, LLP**

15 s/ Robert B. Hakari 9/6/17
16 Robert Hakari OSB No. 114082
17 920 SW 3rd Ave, 1st Floor
18 Portland, OR 97204
19 Phone: (971) 201-3200
20 Fax: (971) 201-3202
21 rhakari@mccarthyholthus.com
22 Of Attorneys for Plaintiff
23
24
25
26
27
28

EXHIBIT " 1 "

EXHIBIT "1"

Tract of land located in Northeast Quarter of Northwest Quarter of Section 5, Township 4 North, Range 29, E.W.M., being described as follows:

Beginning at Northeast corner of said Northeast Quarter of Northwest Quarter of said Section 5; thence along East line of said Northwest Quarter a distance of 399 feet, more or less, to Northeast corner of that tract of land conveyed to Ray A. Rood, etux, by deed recorded in Microfilm R-13, Page 1875, Deed Records, and the true point of beginning for this description; thence continuing South along East line of said Northwest Quarter a distance of 420 feet; thence West, prallel (should read "parallel") to North line of said Northwest Quarter a distance of 250 feet; thence North, parallel to and 250 feet distant from East line of said Northwest Quarter a distance of 420 feet to Northwest corner of the above mentioned Rood Tract; thence East along North line of said Rood Tract a distance of 250 feet to the point of beginning.

TOGETHER with an easement for ingress and egress 40 feet in width, being 20 feet on each side of the following described centerline;

Beginning at Northwest corner of Northeast Quarter of Northeast Quarter of Northwest Quarter of said Section 5; thence East along North line of said Northwest Quarter a distance of 132 feet to the true point of beginning for this centerline description; thence South, parallel to and 132 feet distant from West line of said Northeast Quarter of Northeast Quarter of Northwest Quarter of said Section 5, to a point 20 feet North of South line of said Northeast Quarter of Northeast Quarter of Northwest Quarter of said Section 5; thence East, parallel to and 20 feet distant from said South line to a point 250 feet distant West of East line of said Northeast Quarter of Northeast Quarter of Northwest Quarter of said Section 5 and the point of terminus of said centerline description;

Subject to any and all water rights of way and roads;

All being East of the Willamette Meridian, Umatilla County, Oregon.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF UMATILLA

WILMINGTON SAVINGS FUND SOCIETY,
FSB, D/B/A CHRISTIANA TRUST, NOT
INDIVIDUALLY BUT AS TRUSTEE FOR
PRETIUM MORTGAGE ACQUISITION
TRUST,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEWISEES
OF EDWIN L. CURTIS; THE UNKNOWN
HEIRS AND DEWISEES OF DIANA K.
CURTIS; MICHELLE FROST; LEZLEE
CURTIS; BENEFICIAL OREGON, INC;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: CV151400

GENERAL JUDGMENT OF
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion.

- a. Defendants THE UNKNOWN HEIRS AND DEWISEES OF EDWIN L. CURTIS, THE UNKNOWN HEIRS AND DEWISEES OF DIANA K. CURTIS, BENEFICIAL OREGON, INC., and OCCUPANTS OF THE PROPERTY ("Defaulted Defendants") were duly served with process and failed to appear; the default has been entered against Defaulted Defendants, and it appearing that Defaulted Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005, minors, or in the military service of the United States;
- b. A Stipulated Limited Judgment has been entered with regard to Defendants MICHELLE FROST & LEZLEE CURTIS ("Stipulating Defendants");

IT IS HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

- a. The real property to which this judgment relates is located and situated in Umatilla County, Oregon, and is commonly known as Route 3 Box 3455, Hermiston, OR 97838 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 123512.
- b. Plaintiff is entitled to enforce the note dated 11/1/1996 and made, delivered, and executed by Edwin Curtis, Diana K. Curtis to Norwest Mortgage, Inc. in the amount of \$76,950.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.
- c. A deed of trust was made, executed, and delivered by Defendants Edwin Curtis, Diana K. Curtis on or about 11/1/1996 (the "Deed of Trust"). The Deed of Trust was recorded on 11/6/1996 as Instrument No. 1996-224977 in the official records of Umatilla County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- d. The Borrower failed to make the payment that was due for 10/1/2014 and has not cured the default. The amount of debt secured by the Deed of Trust that is now due and owing is comprised of the following amounts (the "Amount Due"):

- a) Unpaid principal balance: \$ 51,943.41
- b) Prejudgment interest accruing from 9/1/2014 through 5/31/2017 and continuing until the entry of judgment at the current Note rate of 8.500%: \$ 12,136.65
- c) Additional amounts due under the terms of the loan: \$ 7,255.73
- d) Attorney fees and costs: \$ 7,325.09

1 e) Prevailing party fee (ORS 20.190 (1)(b)): \$ 85.00

2 **TOTAL: \$ 78,745.88**

3 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the
4 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%
5 per annum.

6 e. The interest of the Defendants and any successor in interest in the Subject Property is
7 foreclosed and terminated excepting only any statutory right of redemption as provided by
8 Oregon law.

9 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.

10 g. All right, title and interest in the Subject Property that Defendants Edwin L. Curtis, Diana K.
11 Curtis had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be
12 sold by the Umatilla County Sheriff's Office in accordance with the process for sale upon
13 execution, and the proceeds of sale shall be applied:

14 1) First, to the costs of sale not incurred by Plaintiff;

15 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
16 entry of judgment through the date of the sale and any incurred costs of sale;

17 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
18 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
19 such party or parties as they may establish their right thereto.

20 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
21 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
22 the date of entry of judgment through the date of the sale and any incurred costs of sale.

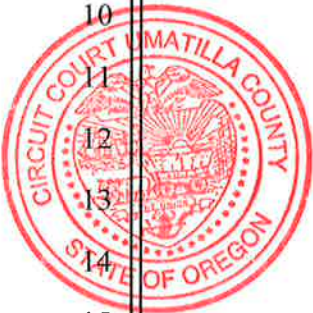
23 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
24 Property from and after the date of the sale and is entitled to such remedies as are available at
25 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
26
27
28

1 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
2 possession to the purchaser immediately upon the purchaser's demand for possession.

3 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
4 entitled to any further or other judgment, including a judgment for the deficiency.

5 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
6 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
7 terminated.

Signed: 6/6/2017 10:19 AM



10
11
12 CERTIFIED TO BE A TRUE AND
CORRECT COPY OF THE ORIGINAL

Dated Sept. 7th, 2017

TRIAL COURT ADMINISTRATOR

By Johnson
court clerk


Christopher R. Brauer, Circuit Court Judge

15 I hereby certify that the requirements of UTCR 5.100 have been satisfied.

16 On 6/1/2017 a copy of the proposed **General Judgment of Foreclosure** was:

17 Served on:

18 Sally Anderson Hansell
19 Anderson Hansell PC
475 East Main Street
20 Hermiston, OR 97838

Attorney for Michelle Frost and Lezlee Curtis

21 not less than 3 days prior to submission to the court.

22
23 This proposed **General Judgment of Foreclosure** is ready for judicial signature because:

24 Each opposing party affected by this order or judgment has stipulated to the order or
25 judgment, as shown by each opposing party's signature on the document being
submitted.

26 Each opposing party affected by this order or judgment has approved the order or
27 judgment, as shown by signature on the document being submitted or by written
confirmation of approval sent to me.

1 [] I have served a copy of this order or judgment on all parties entitled to service and:

2 [] No objection has been served on me.

3 [] I received objections that I could not resolve with the opposing party despite
4 reasonable efforts to do so. I have filed a copy of the objections I received and
5 indicated which objections remain unresolved.

6 [] After conferring about objections, _____ agreed to independently file
7 any remaining objection.

8 [] The relief sought is against an opposing party who has been found in default.

9 [] An order of default is being requested with this proposed judgment.

10 [] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
11 otherwise.

12 [] This is a proposed judgment that includes an award of punitive damages and notice
13 has been served on the Director of the Crime Victims' Assistance Section as required
14 by subsection (4) of this rule.

15 [] Other: _____

16 Presented by:

17 **McCarthy & Holthus, LLP**

18 s/ Robert B. Hakari 6/5/2017

19 [x] Robert B. Hakari, OSB No. 114082

20 [] Jeremy Clifford, OSB No. 142987

21 920 SW 3rd Ave, 1st Floor

22 Portland, OR 97204

23 Phone: (971) 201-3200

24 Fax: (971) 201-3202

25 rhakari@mccarthyholthus.com

26 Of Attorneys for Plaintiff

EXHIBIT " 1 "

EXHIBIT "1"

Tract of land located in Northeast Quarter of Northwest Quarter of Section 5, Township 4 North, Range 29, E.W.M., being described as follows:

Beginning at Northeast corner of said Northeast Quarter of Northwest Quarter of said Section 5; thence along East line of said Northwest Quarter a distance of 399 feet, more or less, to Northeast corner of that tract of land conveyed to Ray A. Rood, etux, by deed recorded in Microfilm R-13, Page 1875, Deed Records, and the true point of beginning for this description; thence continuing South along East line of said Northwest Quarter a distance of 420 feet; thence West, prallel (should read "parallel") to North line of said Northwest Quarter a distance of 250 feet; thence North, parallel to and 250 feet distant from East line of said Northwest Quarter a distance of 420 feet to Northwest corner of the above mentioned Rood Tract; thence East along North line of said Rood Tract a distance of 250 feet to the point of beginning.

TOGETHER with an easement for ingress and egress 40 feet in width, being 20 feet on each side of the following described centerline;

Beginning at Northwest corner of Northeast Quarter of Northeast Quarter of Northwest Quarter of said Section 5; thence East along North line of said Northwest Quarter a distance of 132 feet to the true point of beginning for this centerline description; thence South, parallel to and 132 feet distant from West line of said Northeast Quarter of Northeast Quarter of Northwest Quarter of said Section 5, to a point 20 feet North of South line of said Northeast Quarter of Northeast Quarter of Northwest Quarter of said Section 5; thence East, parallel to and 20 feet distant from said South line to a point 250 feet distant West of East line of said Northeast Quarter of Northeast Quarter of Northwest Quarter of said Section 5 and the point of terminus of said centerline description;

Subject to any and all water rights of way and roads;

All being East of the Willamette Meridian, Umatilla County, Oregon.